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MEMORANDUM

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TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

2007 JUL 16 A 8:44

AZ CORP COMMISSION
DOCKET CONTROL

305m
Arizona Corporation Commission

DOCKETED

JUL 16 2007

DATE: July 16, 2007

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RE: THE AERIE CONSERVANCY - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINE (DOCKET NO. W-04291A-04-0843)

In Decision No. 67881, dated June 1, 2005, the Arizona Corporation Commission ("A.C.C." or "Commission") approved the application of The Aerie Conservancy ("Aerie" or "Company"), an Arizona Non-Profit Corporation, for adjudication not a public service corporation.

As part of Decision No. 67881, the Commission ordered that:

"...within 24 months of the Decision, The Aerie Conservancy shall file with Docket Control documentation demonstrating its ownership of, and a copy of the Arizona Department of Environmental Quality ("ADEQ") Approval of Construction for:

- (i) the well, 120,000 gallon storage tank and booster pump comprising the backbone infrastructure for the Aerie, and
- (ii) the distribution infrastructure for lots 1-41 of the Aerie."

On June 1, 2007, Aerie docketed the attached filing requesting an extension of the 24 month deadline originally ordered in Decision No. 67881. This information is shown on page 2, line 4, of the Company filing.

Based on the June 1, 2005 date of the Decision No. 67881, the original due date for compliance was 24 months after that timeframe or June 1, 2007. The current request for extension was filed precisely on the June 1, 2007 due date. In its application, the Company requests that Aerie receive a 120 day extension of the deadline to comply with the above compliance items. The Company is therefore requesting a proposed due date of September 30, 2007.

The Company filing referred to the above described infrastructure stating that it "is substantially complete, but there is some testing that must be completed before ADEQ can issue an AOC". The application further states that the developer will "convey" the infrastructure to the Company once the Approval of Construction ("AOC") has been obtained.

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On June 11, 2007, Staff contacted Mr. Jeffrey Crockett, Aerie's attorney, to discuss the request for extension. Mr. Crockett confirmed that the construction associated with this request was substantially complete and that the remaining effort centers on the scheduling of inspections and overall review by the ADEQ.

Based on the application and the above, Staff does not oppose the Company's request for an extension in this matter. However, in order to assure that the Company has adequate time for the ADEQ review, Staff recommends that the Commission grant an extension of the June 1, 2007 compliance deadline until December 31, 2007.

EGJ:BKB:lhv

Originator: Brian K. Bozzo

SERVICE LIST FOR:
DOCKET NO.

THE AERIE CONSERVANCY
W-04291A-04-0843

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Ms. Lyn Farmer
Chief Administrative Law Judge
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON – Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

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AZ CORP COMMISSION
DOCKET CONTROL
CORP COMM
Director Utilities

IN THE MATTER OF THE APPLICATION
OF AERIE CONSERVANCY, AN ARIZONA
NONPROFIT CORPORATION, FOR
ADJUDICATION THAT IT IS NOT A PUBLIC
SERVICE CORPORATION

DOCKET NO. W-04291A-04-0843
ANNUAL CERTIFICATION AND
REQUEST FOR EXTENSION OF
DEADLINE

The Arizona Corporation Commission ("Commission") granted the application of The Aerie Conservancy for adjudication not a public service corporation in the above-captioned docket. *Decision No. 67881 (June 1, 2005)*. In Decision 67881, the Commission ordered The Aerie Conservancy to file a copy of the Declaration of Covenants, Conditions, Restrictions and Easements for the 78 lot subdivision known as The Aerie that (i) restricts the further subdivision of The Aerie, (ii) limits the number of memberships in the Aerie Conservancy, (iii) prohibits expansion of the property to be served by The Aerie Conservancy, and (iv) grants equal voting rights ("CC&Rs"). The Commission further ordered The Aerie Conservancy to file an annual certification stating that the CC&Rs provisions set forth above in (i)–(iv) remain in place and have not been altered, amended or repealed. The annual certification must be signed by an officer and filed by June 1 of each year until the "Transition Date" as defined in the CC&Rs.

The Aerie Conservancy recorded the CC&Rs with the Yavapai County Recorder on November 17, 2005, at Book 4335, Page 608. The Aerie Conservancy filed its first annual certification on June 1, 2006, stating that the CC&Rs provisions (i)–(iv) remain in place and have not been altered, amended or repealed. In compliance with Decision 67881, The Aerie

Snell & Wilmer

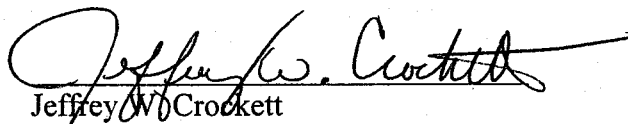
LLP
LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

1 Conservancy hereby provides its second annual certification that the CC&Rs provisions (i)-(iv)
2 remain in place and have not been altered, amended or repealed. The certification of Jami
3 Schulman, the President of The Aerie Conservancy, dated June 1, 2007, is attached hereto.

4 In addition, The Aerie Conservancy requests a 120-day extension of the deadline to file
5 documentation demonstrating its ownership of, and a copy of the Arizona Department of
6 Environmental Quality ("ADEQ") Approval of Construct ("AOC") for: (i) the well, the 120,000-
7 gallon storage tank and the booster pump comprising the backbone infrastructure for The Aerie;
8 and (ii) the distribution infrastructure for lots 1-41 of The Aerie. See Decision 67881 at 11-12.
9 The above-described infrastructure is substantially complete, but there is some testing that must
10 be completed before ADEQ can issue an AOC. Once the AOC has been issued, the developer
11 will convey the infrastructure to The Aerie Conservancy. To date, the developer has sold some
12 lots within The Aerie, but no construction has commenced on any new homes. For these reasons,
13 The Aerie Conservancy requests the Commission grant the 120-day extension.

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15
16 DATED this 1st day of June, 2007.

17 SNELL & WILMER

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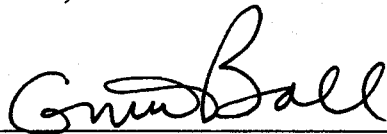
21 Jeffrey W. Crockett
22 Marcie A. Shuman
23 One Arizona Center
24 400 East Van Buren
25 Phoenix, Arizona 85004-2202
26 Attorneys for The Aerie Conservancy

27 ORIGINAL and thirteen (13) copies
28 filed with Docket Control this 1st
day of June, 2007.

1 COPY of the foregoing hand-delivered
2 this 1st day of June, 2007, to:

3 Christopher Kempley, Chief Counsel
4 Legal Division
5 ARIZONA CORPORATION COMMISSION
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 Ernest G. Johnson, Director
9 Utilities Division
10 ARIZONA CORPORATION COMMISSION
11 1200 West Washington Street
12 Phoenix, Arizona 85007

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